

AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2164

Introduced by Assembly Member Norby

February 18, 2010

An act to amend Section 84308 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 2164, as amended, Norby. Political Reform Act of ~~1974~~: ~~committees~~. 1974.

Existing law defines the term “~~agency~~” “*officer*” for the purposes of contribution limitations to a member of a board by a person or entity appearing before the board, under the Political Reform Act of 1974. The definition of ~~does not include a local board whose members~~ “*officer*” *includes members who are all directly* elected by the public.

This bill would amend the definition of “~~agency~~” “*officer*” under these provisions to ~~also exclude a local board whose elected members include current elected officials who have been appointed to serve on~~ *the of* board.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 84308 of the Government Code is amended to read:

84308. (a) The definitions set forth in this subdivision shall govern the interpretation of this section.

(1) “Party” means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

(2) “Participant” means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.

(3) “Agency” means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial branch of government, local governmental agencies whose members are directly elected by the voters ~~and may include current elected officials who have been appointed as members~~, the Legislature, the State Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

(4) “Officer” means ~~any elected or~~ appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

(5) “License, permit, or other entitlement for use” means all business, professional, trade and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

(6) “Contribution” includes contributions to candidates and committees in federal, state, or local elections.

(b) No officer of an agency shall accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party, or his or her agent, or from any participant, or his or her

1 agent, while a proceeding involving a license, permit, or other
2 entitlement for use is pending before the agency and for three
3 months following the date a final decision is rendered in the
4 proceeding if the officer knows or has reason to know that the
5 participant has a financial interest, as that term is used in Article
6 1 (commencing with Section 87100) of Chapter 7. This prohibition
7 shall apply regardless of whether the officer accepts, solicits, or
8 directs the contribution for himself or herself, or on behalf of any
9 other officer, or on behalf of any candidate for office or on behalf
10 of any committee.

11 (c) Prior to rendering any decision in a proceeding involving a
12 license, permit, or other entitlement for use pending before an
13 agency, each officer of the agency who received a contribution
14 within the preceding 12 months in an amount of more than two
15 hundred fifty dollars (\$250) from a party or from any participant
16 shall disclose that fact on the record of the proceeding. No officer
17 of an agency shall make, participate in making, or in any way
18 attempt to use his or her official position to influence the decision
19 in a proceeding involving a license, permit, or other entitlement
20 for use pending before the agency if the officer has willfully or
21 knowingly received a contribution in an amount of more than two
22 hundred fifty dollars (\$250) within the preceding 12 months from
23 a party or his or her agent, or from any participant, or his or her
24 agent if the officer knows or has reason to know that the participant
25 has a financial interest in the decision, as that term is described
26 with respect to public officials in Article 1 (commencing with
27 Section 87100) of Chapter 7.

28 If an officer receives a contribution which would otherwise
29 require disqualification under this section and returns the
30 contribution within 30 days from the time he or she knows, or
31 should have known, about the contribution and the proceeding
32 involving a license, permit, or other entitlement for use, he or she
33 shall be permitted to participate in the proceeding.

34 (d) A party to a proceeding before an agency involving a license,
35 permit, or other entitlement for use shall disclose on the record of
36 the proceeding any contribution in an amount of more than two
37 hundred fifty dollars (\$250) made within the preceding 12 months
38 by the party, or his or her agent, to any officer of the agency. No
39 party, or his or her agent, to a proceeding involving a license,
40 permit, or other entitlement for use pending before any agency

1 and no participant, or his or her agent, in the proceeding shall make
2 a contribution of more than two hundred fifty dollars (\$250) to
3 any officer of that agency during the proceeding and for three
4 months following the date a final decision is rendered by the
5 agency in the proceeding. When a closed corporation is a party to,
6 or a participant in, a proceeding involving a license, permit, or
7 other entitlement for use pending before an agency, the majority
8 shareholder is subject to the disclosure and prohibition
9 requirements specified in subdivisions (b) and (c) and this
10 subdivision.

11 (e) Nothing in this section shall be construed to imply that any
12 contribution subject to being reported under this title shall not be
13 so reported.

14 SEC. 2. The Legislature finds and declares that this bill furthers
15 the purposes of the Political Reform Act of 1974 within the
16 meaning of subdivision (a) of Section 81012 of the Government
17 Code.